IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 10061 of 2007(S)

OP. (Divorce) No. 35/2006 of FAMILY COURT,ERNAKULAM
.....

PETITIONER:

ALEX, THYPARAMBU,
NORTH THAMARAPARAMBU, FORT KOCHI - 682 001.

BY ADV. SRI. T.R. RAJAN

RESPONDENTS:
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1. **MABLE, KOZHIKOTTUTHARA, KIZHAKKE**
   APPANGADU, NJARACKAL P.O., ERNAKULAM.

2. **PAULIN, KOZHIKOTTUTHARA, KIZHAKKE**
   APPANGADU, NJARACKAL P.O., ERNAKULAM.

BY ADV. SRI.B.RAMACHANDRAN
SMT. JOLIMA GEORGE
SMT. P.N. INDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 10061/2007(S)

A P P E N D I X

PETITIONER'S EXHIBITS:

EXT. P1	**:**	**COPY OF THE O.P (DIVORCE) NO. 35/2006 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, ERNAKULAM.**
EXT. P2	**:**	**COPY OF THE OBJECTION IN O.P (DIVORCE) NO. 35/2006 FILED BY THE 1ST RESPONDENT BEFORE THE FAMILY COURT, ERNAKULAM.**
EXT. P3	**:**	**COPY OF THE M.C. NO. 204/06 FILED BY THE 1ST RESPONDENT BEFORE THE FAMILY COURT, ERNAKULAM.**
EXT. P4	**:**	**COPY OF THE OBJECTION IN M.C. NO. 204/06 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, ERNAKULAM.**
EXT. P5	**:**	**COPY OF THE PETITION M.P. NO. 290/07 IN M.C. NO. 204/06 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, ERNAKULAM.**
EXT. P6	**:**	**COPY OF THE ORDER DATED 06.03.2007 IN M.P. NO. 290/07 IN M.C. NO. 204/06 OF THE FAMILY COURT, ERNAKULAM.**

// True Copy //

P.A. to Judge.

smp

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ.

W.P. (C). No. 10061 OF 2007

Dated this the 29th day of May, 2007.

J U D G M E N T

Kurian Joseph, J.

The petitioner is aggrieved by Exhibit P6 order passed by the Family Court, Ernakulam in M.C. No. 204/2006. The crux of the grievance of the petitioner is that O.P (Divorce) No. 35 of 2006 filed by him for declaration of nullity of marriage has been pending before the Family Court, Ernakulam since January 2006 whereas the first respondent filed the maintenance case only in July 2006. The counselling was conducted in both cases. However, only the maintenance case was taken up. A request was made for adjourning the maintenance case to be tried together with O.P. (Divorce) No. 35 of 2006. The Family Court observing that the husband is liable to pay maintenance until the date of decree, dismissed the application. Despite service of notice, there is no appearance for the respondents.

2. The main contention of the petitioner is that in case the marriage is declared as null and void, there is no liability to pay maintenance and hence both cases should have been tried together. We are satisfied that it is only in the interest of justice, the request for simultaneous trial is permitted.

Accordingly, this writ petition is disposed of setting aside Exhibit P6 order and directing Family Court, Ernakulam to simultaneously conduct the trial of O.P. (Divorce) No. 35/2006 and M.C. No. 204/2006 on the file of Family Court, Ernakulam.

This writ petition is disposed of as above.

KURIAN JOSEPH
JUDGE

T.R. RAMACHANDRAN NAIR
JUDGE

smp